

David J. Cacciotti  
7803 Halyard Ter  
Chesterfield, VA 23832  
Claimant

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*Counsel for the Circuit City Stores, Inc.  
Liquidating Trust*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

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In re:  
CIRCUIT CITY STORES, INC. et al.,  
Debtor  
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Chapter 11  
Case # 08-35653-KRH  
Claim # 2309

The Debtor and the last four digits of their taxpayer  
Identification numbers are as follows: Circuit City Stores, Inc.  
(3875)

**BACKGROUND**

The claimant had filed with the U. S. Bankruptcy court asking to have his payment of the PTO. As requested and approved pursuant to court response to his claim. Based on U. S. Bankruptcy court records referring to "Order Pursuant To Bankruptcy Code Section, 105 (a), 363, 507 (a), 541, 1107 (a) and 1108 and Bankruptcy Rule 6003 (a) Compensation and Employee Benefits, a ruling was (a) Authorizing, but not directing debtors to pay pre-petition wages, salaries, bonuses, reimbursements and other compensation. This motion was GRANTED.

However, Circuit City and its representatives failed to comply with the court order. Therefore the claimant has filed a request for the payment of his earned PTO pay. This however, has never been fulfilled.

**MOTION OF THE CLAIMANT, Objection to classification of Claimant in Court Documents**

Per the information provided to the claimant regarding the Liquidating Trust's Nineteenth Omnibus Objection to Certain Employee Priority Claims:

It is stated that the above Claimant, David J. Cacciotti, an hourly employee, has received the payment of wages in the amount of 1027.27. (See Exhibit L, line 3 showing the information pertaining to the Claimant. This refers to page 8 paragraph 19 and page 30 of Omnibus objection.)

The information related to this claim is in fact in error. The claimant was not asking for wages, but they are PTO payment not received. The claimant should have been listed in Exhibit K. per section 17 page 7. As it states "The Liquidating Trustee has determine that certain holders of PTO Claims are entitled to payment of their PTO Claims..."

The Claimant has submitted evidence in January of 2009 asking for missing PTO payment. In his original claim, the claimant provided evidence as exhibit 1. (Copy of his last pay stub. dated January 13, 2009 the PTO earn was 93.65 hours. At the rate of pay of \$15.27 this amounted to gross, \$1430.04. After taxes and other deductions the amount owed to the claimant is \$1027.27.

As well, in previous appearance at the U.S. Bankruptcy Court, the Lawyers Representing Circuit City advice the Claimant the PTO was to be paid to the claimant. As confirmed by the Circuit City lawyer, Daniel Banks in person and via telephone conversations stating Claimant was to be paid the PTO.

In February of 2011, the claimant received from Kurtzman, Carson Consultants a W-4 form to be filled out and return to them. This form was processed and sent to them with in a week of receiving the papers. As of this date, plaintiff has not received any response nor any payment sent to him.

The claimant sites the following for reason for receiving PTO payment;

The Worker Adjustment and Retraining Notification Act ("WARN") (29 U.S.C. Section 2101 et seq.),

The U. S Bankruptcy Code, Section, 105 (a), 363, 507 (a), 541, 1107 (a) and 1108 and Bankruptcy Rule 6003 (a).

U.S. Bankruptcy documents that sited a motion was Granted in paying the PTO hours to Claimant and others. (See Attached document)

Therefore, the Claimant is asking the U.S. Bankruptcy court to correct the error showing the Claimant was asking for lost wages as shown in Exhibit L, but was asking for non-payment of PTO hours under the evidence shown on page 30 Section F Paragraph 93 Section K.



David J. Cacciotti  
7803 Halyard Ter.  
Chesterfield, Va. 23832

3/25/11

CIRCUIT CITY PAYROLL  
PO BOX 563986  
CHARLOTTE, NC 28256-3986  
1-800-288-6353

DAVID J CACCIOTTI  
9812 Fernleigh Dr.  
Richmond, VA 23235

Pay Group: HME Home Hourly and Salaried  
Main Document Page 3 of 3

Employee ID: 10335436  
Department: 900000 Consumer Parts  
Location: Deep Run - CCS Corporate

Pay Begin Date: 01/02/2009 Advice #: 3246103  
Pay End Date: 01/15/2009 Advice Date: 01/21/2009

TAX DATA: Federal VA State  
Marital Status Single Single  
Allowances: 2 1  
Addl. Pct:  
Addl. Amt:

HOURS AND EARNINGS						TAXES		
Description	Current			YTD		Description	Current	YTD
	Rate	Hours	Earnings	Hours	Earnings			
Regular Hourly	15.270000	48.00	732.96	112.00	1,710.24	Fed Withholding	16.56	100.81
Paid Time Off			0.00	16.00	244.32	Fed MED/EE	9.01	25.92
						Fed OASDI/EE	38.53	110.82
						VA Withholding	14.86	56.28
Total:		48.00	732.96	128.00	1,954.56	Total:	78.96	293.83


BEFORE TAX DEDUCTIONS			AFTER TAX DEDUCTIONS			PTO Plan	
Description	Current	YTD	Description	Current	YTD		
Employee Dental	13.56	20.34	Accidental Death/Dismemberment	2.50	3.75	PY PTO	
Employee Medical	97.84	146.76	Supplemental Life Insurance	17.72	26.58	Earned	0.00
401K	73.30	195.46	Long Term Disability	9.66	14.79	Taken	0.00
						Balance	0.00-
						Current PTO	
						Earned	159.06
						Taken	72.75
						Balance	93.65
						IMPUTED INCOME	
						Current:	0.00
Total:	184.70	362.56	Total:	30.08	45.12	YTD:	0.00

TOTAL GROSS	FED TAXABLE GROSS	TOTAL TAXES	TOTAL DEDUCTIONS	NET PAY
Current: 732.96	548.26	78.96	214.78	439.22
YTD: 1,954.56	1,592.00	293.83	407.68	1,253.05

MESSAGE VERIFY YOUR PERSONAL INFO FOR 2007 W2 ACCURACY

▼ FOLD AND TEAR HERE ▼

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER-THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE WHEN CHECKING THE ENDORSEMENT



CIRCUIT CITY PAYROLL  
PO BOX 563986  
CHARLOTTE, NC 28256-3986  
1-800-288-6353

Date: 01/21/2009

Advice No. 3246103

Deposit Amount: \$\*\*\*\*\*439.22

To The Account(s) Of DAVID J CACCIOTTI  
9812 Fernleigh Dr.  
Richmond, VA 23235

**NON NEGOTIABLE**

**DIRECT DEPOSIT DISTRIBUTION**

Account Type	Account Number	Deposit Amount
Checking	XXXXXXXXXXXXXXXXXXXX5230	\$439.22

**TOTAL \$439.22**

**NON-NEGOTIABLE**  
**THIS IS NOT A CHECK**